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EXAMINER	
TRUVAN, LEYNNA THANH	

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RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHINGO YAMAGUCHI

Appeal 2008-2145
Application 09/863,384
Technology Center 2100

Oral Hearing Held: July 9, 2008

Before JAMES D. THOMAS, ST. JOHN COURTENAY III, and THU ANN DANG, Administrative Patent Judges.

ON BEHALF OF THE APPELLANT:

SURINDER SACHAR, ESQUIRE
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The above-entitled matter came on for hearing on Wednesday, July 9, 2008, commencing at 9:00 a.m., at The U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia before Dominico Quattrociocchi, Notary Public.

MS. HALL: -- 5, and the attorney is Mr. Surinder Sachar.

MR. SACHAR: Good morning, Your Honors.

JUDGE THOMAS: Good morning. I think you know the process, so you can proceed at any time.

MR. SACHAR: Thank you very much. Yes. My name is Surinder Sachar for appeal no. 2008-2145. This device, as claimed, is directed to a system or method in which different devices can connect to a network, either with a non-encrypted or encrypted connection. In this claimed device, we -- the device operates so that a network level access security level is set based on whether the connection to the network from the external device is encrypted or non-encrypted. If the device connects with a encrypted connection, it will have a higher level of access and, as set forth in the claims, it will be able to access a network server. If the device connects to the network through a non-encrypted connection, it will have, basically, a lower level of access and it will have access to some devices on the network, as were said in the claims, the Internet or an e-mail server, but it won't have access to the other devices.

JUDGE COURTENAY: Okay, to be clear, we first have a detection or a determination step that determines whether you have an encrypted connection or an unencrypted connection?

MR. SACHAR: Yes.

JUDGE COURTENAY: And from that information set, you determine a first and second level of security?

MR. SACHAR: That's correct.

JUDGE COURTENAY: Okay.

MR. SACHAR: The primary reference is Stewart, and Stewart discloses having a connection to the network with different access levels, but does not disclose any encrypted or non-encrypted connection, and particularly does not disclose making a determination of the access level based on whether the connection is encrypted or non-encrypted.

And that's where the secondary reference comes in, to Lewis, as the Examiner cites. Lewis discloses that devices can connect to a network either with an encrypted or a non-encrypted connection. The difference between what Lewis discloses and what our claims set forth is that in Lewis, the network level access is not based on whether the connection is encrypted or non-encrypted. Instead, in Lewis, a network administrator can set up different levels of access. So in Lewis, even a device that connects in a non-encrypted manner could have a very high level of access depending on how the network administrator has set up access for that particular device.

The main point in our device is that the level of access is based on whether the connection is encrypted or non-encrypted. Lewis, which seemed to be cited for that proposition, doesn't make that determination. Lewis does make a determination as to whether the connection is encrypted or non-encrypted, but it's so it can make a second determination as to what level of network access has been set by an administrator if the connection is non-encrypted. And that's how we think our device is different from both Stewart and Lewis.

JUDGE DANG: Are you saying individually they're different?

MR. SACHAR: Collectively. Neither of the devices addresses sort of the main point of using the determination of encrypted or non-encrypted

connection to set a level of access. Collectively, they wouldn't disclose that, either.

JUDGE COURTENAY: Generally, broadly, levels of access are set by system administrators?

MR. SACHAR: Yes.

JUDGE COURTENAY: And your invention, your claim -- is this is automatically done from detecting whether you have an encrypted or unencrypted connection?

MR. SACHAR: That's correct.

JUDGE COURTENAY: Without a system administrator?

MR. SACHAR: That's correct.

JUDGE THOMAS: But method claim 1 only merely recites determining.

MR. SACHAR: Well, method claim -- it's 41. It says determine a level of security network connection based on determining whether the computer network connection to connect -- device is encrypted. It goes on to say that the different levels of access, what you -- what level of access you have based on whether it's determined if the connection is encrypted.

JUDGE THOMAS: Once an administrator determines that, even though it's done mechanically or manually, it's automatically set in place.

MR. SACHAR: In the art, the administrator doesn't make the determination based on whether the connection is encrypted or non-encrypted. It makes the determination based on the accessing device. In Lewis, for example, the administrator could -- a device could connect in a non-encrypted manner but it could have a very high level of access based on what's set by the administrator. So the administrator is not making the

determination on the connection type, only on the -- what the actual device is, who the user is, et cetera.

JUDGE THOMAS: Okay. Any other points to make?

MR. SACHAR: No, I think that summarizes our position.

JUDGE THOMAS: Very good. Thank you.

MR. SACHAR: Thank you very much for your time.

JUDGE COURTENAY: Thank you.

(Whereupon, the proceedings concluded on July 9, 2008, at 10:06 a.m.).